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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/024,966

Applicant(s)

SAHAGIAN, DAVID VICTOR

Examiner

Dave Robertson

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is a Non-final office action after the filing of a Request for Continuation (RCE) on 7/11/2008. Claims 1-9 are pending.

Continued Prosecution Application

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/11/2008 has been entered.

Response to Amendment

3. Applicant amends claims 1, 7 and 9 (all independent claims) to more clearly recite information and means for *managing and maintaining consistent recording of a changeable nature* in process steps in a sales process managing system.

Response to Arguments

4. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

5. Claim 9 is objected to because of the following informalities: In the amended claim listing of 7/1/2008, claim 9 is indicated as (Previously Presented) though claim 9 is clearly currently amended. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-9 recite systems comprising a database and *means for* performing functions related to the information in a database. Claims 1-9 invoke 35 U.S.C. 112, sixth paragraph, and therefore interpreting the claimed *means* in view of the specification is necessary. However, the *means* for performing the claimed functions are disclosed as encompassing *software per se*, and thus, the claims recite a system without structure (lacking apparatus) for performing the claimed functions and as such the claimed systems are indefinite. For the purposes of examination, the claims will be interpreted as reciting a system having a memory and a processor, the memory storing the database and the processor comprising the *means for* performing the recited functions.

Claims 1, 7 and 9 (all independent claims) recite data information regarding a changeable nature of the plurality of steps. It is unclear exactly what is a *changeable nature* of the plurality of steps. For the purposes of examination the limitation will be interpreted as *data indicating something in the process can change or has changed, i.e. a step or result of a step has a "changeable nature"*. Claims 2-6 and 8 depend from claims 1 and 7 and are similarly deficient.

Claims 1, 7, and 9 (all independent claims) recite means for maintaining consistent recording...upon changing any of the...steps. It is unclear what is meant by *maintaining consistent recording...* For the purposes of examination the limitation will be interpreted as *means for recording changes in the plurality of steps*. Claims 2-6 and 8 depend from claims 1 and 7 and are similarly deficient.

Appropriate amendment or clarification is requested.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 1-9 are rejected under 35 U.S.C. 101 because the claims recite "system" without structure and as above (see 35 U.S.C. 112, 6th) are indefinite as to which statutory class the inventions belong. Furthermore, lacking structure, the "systems" recite *means for performing functions which, according the specification, encompass software per se*. Software per se is nonstatutory under U.S.C. 101.

Appropriate amendment is requested.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Thompson et al (US Pat. 7,216,087)

The present invention is an automated re-configurable sales process system where next steps in the sales process are determined based on the result of the current step (Figure 4A exemplary interface of process configuration capability), and including features in process execution to create, complete, edit information on, and undo steps in a sales deal (Figure 6A exemplary).

Thompson discloses a computerized sales process automation system for managing steps of the sales process having a "changeable" nature in complicated sales processes where sales processes can be changed from fixed serial sequences of steps to new strategies, and including recording results of steps in the sales process to determine probability of winning a sale based on the completed steps.

Specifically, with respect to the claims of the present invention:

Claim 1

Thompson teaches a database (Figure 2, 186) including
information regarding at least one process (see column 6, from line 51; and column 8 "The Sales Model");

information regarding a plurality of steps associated with each of the at least one process, the plurality of steps having a sequential order (see column 3, lines 13-33 describing the "typical" serial sales process; column 8 "The Sales Model"; and column 10 from line 18, describing the steps (phases) of the sales cycle; and example at column 12, lines 17-62; see also column 19 from line 12 describing the Sales Manager sales cycle/model builder for building the sales process);

information regarding a changeable nature of the plurality of steps (see Abstract; columns 15 from line 37: "Assigning Probabilities": probability of closing the sale at each phase and with each interaction is a "changeable nature" of the sales process, the probabilities leading to changes in the priority of steps taken by the sales person, and which changes are recorded (column 14, line 17) to reflect new situations);

information regarding at least one result associated with each of the plurality of steps (see column 11, from line 62 describing "Interactions" throughout the sales cycle and saving information (column 12, line 14) from those interactions; see also column 13 from line 17 "Information" collected throughout the sales cycle);

means for creating at least one deal corresponding to the at least one process (see Figures 1, 12, 14, inter alia, esp. column 19 from line 40, the sales representative creating a new sales process (a deal) through the user interface);

means for indicating completion of steps associated with the at least one process corresponding to the at least one deal (see Figures 1, 12, 14, inter alia; esp. column 19 from line 33 describing sales representative entering responses to questions and resulting new steps based on the results);

means for maintaining consistent recording of the plurality of steps upon changing any of the plurality of steps (see sales manager process building interface column 19 from line 12, the stored sales model recording changes to any of the plurality of steps entered by the sales manager in building the sales process model);

and means for indicating a next step to be completed based upon the indicated completion of steps (see column 17 from line 35 "Determining Priorities" indicating by opportunity priority which steps of a sales opportunity should be completed next based on probabilities of success from indicated completion of steps earlier in the process).

Claim 2

Thompson teaches *means for indicating one of the at least one result associated with a step indicated as being completed* (see Figure 12);

means for maintaining consistent recording of the result associated with the step upon changing any of the plurality of steps (see ¶[0000] page column line);

and means for determining the next step to be completed based upon the indicated at least one result (see ¶[0000] page column line).

Claim 3

Thompson teaches a system for managing sales processes *wherein the next step may be any step in the sequential order of the plurality of steps*. That is, Thompson teaches a sales model process not constrained by the sequential steps of the process based on user interactions with potential customers (see columns 21-22).

Claim 4

Thompson teaches claim 1 as above, including a user interface (Figure 12) in which a sales representative may *indicate a completed interaction*, but then *cancel* the completed action by interface icon (circle X, lower right of user interface) thus providing *means for removing an indication that the step has been completed*. Thompson does not expressly state that upon cancelling the current interaction that the *next interaction* (the *next step in the process* is displayed, for example, the previous step or the next step following a non-critical or optional interaction). However, if lacking such means Thompson could not recover to display the activity for the user and thus be operable with respect to what the user is to next perform, and therefore such *means for indicating the next step to be completed based upon the removal of the indication of the completed step* must be present in Thompson for Thompson to operate as a functional user interface for presenting a sales process.

Claim 5

Thompson *means for storing information regarding completion of steps* (see column 19 from line 33).

Claim 6

Thompson teaches *means for changing information regarding at least one of the plurality of steps* (column 19 from line 12 describing the Sales Manager sales cycle/model builder for building the sales process) and *including means for ensuring that each process associated with a change of information to at least one of the plurality of steps is complete* (see column 19, line 17, "critical activities" sales model steps

including in the sales model ensure that changes to information by the user are complete).

Claims 7 and 8 recite a system substantially as claimed in the combination of elements from claims 1-3, 5, and 6 above and is similarly rejected for reasons given above for the respective claims and claim elements.

Claim 9 recites a system substantially as claimed in the combination of elements from claims 1-6 as above and is similarly rejected for reasons given above for the respective claims and claim elements.

Conclusion

12. Examiner notes that claims in the present invention invoke 35 U.S.C. 112, sixth paragraph, which requires that a claim limitation expressed in means-plus-function to be construed to cover the corresponding structure described in the specification and equivalents thereof. *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ2d 1845, 1850 (Fed. Cir. 1994). However, the specification and equivalents thereof of the system claims of the present invention include software for performing the functions of a general purpose configurable workflow system, as opposed to the specific interface means as in Figure 4A, for example. Lacking specific limitation to specific means disclosed in the present invention, a broadest reasonable interpretation of the means claimed has been applied, and therefore any *means* meeting the functions claimed may be fairly applied. If this is not Applicant's intent Applicant should so advise or amend in response.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is (571)272-8220. The examiner can normally be reached on 9 am to 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dave Robertson/
Examiner, Art Unit 3623

/Beth V. Boswell/
Supervisory Patent Examiner, Art Unit 3623